

REMARKS

Claim 1 has been amended to remove product-by-process language and to further recite that the pigment parts of the other plastic film are larger than the corresponding parts void of pigment of the one plastic film. Support for amended Claim 1 can be found at, for example, paragraph [0019] of the specification as filed. Entry of this Amendment is respectfully requested. Claims 1 and 6-15 are pending.

Statesmen of Substance of Interview

Applicants thank the Examiner for granting the telephone interview on February 26, 2010, wherein Applicants' representative presented the argument that Ewan does not disclose or suggest the mark developing means of amended Claim 1. In particular, Applicants representative argued that the structure of Ewan cannot meet the limitation that the pigment parts of the other plastic film are larger than the corresponding parts void of pigment of the one plastic film. No agreement was reached.

Response to Claim Rejections Under §103

A. Claims 1, 6, 11, 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,834,247 to Oshima et al, in view of U.S. Patent Application Publication No. 2003/0155354 to Tucker and further in view of U.S. Patent No. 5,294,470 to Ewan;

B. Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oshima in view of Tucker and further in view of Ewan as applied to claim 1 above and further in view of U.S. Patent No. 4,640,838 to Isakson et al; and

C. Claims 9, 10, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oshima in view of Tucker and further in view of Ewan as applied to claims 1 and 11 above, and further in view of GB 2,358,175 to Sato.

The Examiner maintains those portions of the rejections based on Oshima, Tucker and Sato as set forth in the Office Action dated May 12, 2009.

In addition, although acknowledging Oshima (as modified) does not disclose the particular opening indicator as instantly claimed, the Examiner cites Ewan as teaching a marking indicator which indicates whether a flap on a package is open or closed. The indicator is provided by printing various pigmented layers of varying adhesive strength, such that when the package is opened the printed layers separate in a manner that provides each flap with pigmented areas and void areas which are the negative image of each other. In this regard, the Examiner takes the position that each the layers do not need to be printed since the presently claimed “printed layer” limitation is given limited patentable weight for the reasons discussed in the Examiner’s Note at page 2 of the Office Action. The reason for rejection is that it would have been obvious to provide the indicating means of Ewan in-between the two layers of Oshima as modified above in order to not only indicate when the container is opened by steam, as taught by Tucker, but also to indicate if there has been any tampering with the seal of the container prior to purchase by the consumer.

The rejections should be withdraw because (a) Claim 1 has been amended to remove any language that could be construed as a product-by-process limitation, (b) Ewan does not disclose the mark developing means of amended Claim 1, and (c) the purpose and the technical features of Ewan are entirely different from those of the presently claimed invention.

The present invention is directed to a packaging container for a microwave oven hermetically sealed by heat-sealing with a plastic film, the packaging container comprising a vapor release seal part having a weakened part characterized in that the vapor release seal part comprises a mark developing means with which the opening of the vapor release seal part can be recognized by a difference between surface and back packaging materials constituting the vapor release seal part. More particularly, the presently claimed mark developing means comprises a vapor release seal part of one plastic film constituting the packaging container having a print layer having a print pattern having parts void of pigment and a vapor release seal part of an other plastic film constituting the packaging container having a print layer having a print pattern having pigment parts corresponding to the parts void of pigment of the one plastic film and void of pigment outside of said pigment parts, wherein the pigment parts of the other plastic film are larger than the corresponding parts void of pigment of the one plastic film.

(a) In response to the Examiner's position that present Claim 1 recites product-by-process limitations, such as "printing" layer, and that such "printing" is taught by Ewan, (in that Ewan discloses that when the package is opened, the printed layers separate in a manner that provides each flap with pigmented areas and void areas which are the negative image of each other) Claim 1 has been amended to remove any language that could be construed as a product-by-process limitation.

(b) Further, Ewan does not disclose the mark developing means of amended Claim 1.

Ewan discloses a seal comprising a substrate preferably being translucent or transparent to light, having an outer surface and an inner surface; a transparent masking material disposed in an indicia-defining pattern on the inner surface of the substrate, which masking material possesses low adhesion properties to the substrate material; a colorant layer disposed on the inner

surface of the substrate over the transparent masking material; and an adhesive disposed over at least the area in which the colorant layer and transparent masking material are disposed. *See*, col. 2, lines 54-66.

In addition, Ewan discloses that the adhesive 38 is operable first to seal closure flap 14 to a sealable surface 22 of container 10 upon closure of flap 14 as shown in FIG. 6. Further, upon subsequent unsealing of flap 14 as shown in FIG. 7, the adhesive 38 dislodges portions 40 of the composite including the colorant layer 34 from panel 24 and retains these dislodged portions on the sealable surface 22 of container 10. According to Ewan, since the masking material 32 possesses low adhesion properties to the substrate material, differential adhesion will occur, with portions of colorant layer 34 being dislodged, as determined by the indicia-defining pattern defined by masking material 32. *See*, col. 5, lines 33-50. In other words, Ewan discloses a tamper indicating means whereby the indicating means comprises a pattern printed on a surface of a seal part, which is transferred to a surface of the other seal part when the seal is completed.

In contrast, the present claims are directed to a mark developing means comprising a print pattern having parts void of pigment on the seal part of one plastic film and a print pattern having pigment parts corresponding to the parts void of pigment of the one plastic film on the seal part of the other plastic film, wherein the pigment parts of the other plastic film are larger than the corresponding parts void of pigment of the one plastic film, which structure is neither disclosed nor suggested by Ewan.

More particularly, since Ewan begins with only a single colorant layer 34 which is then divided between the two substrates comprising the flap, Ewan cannot meet the limitation of present Claim 1 where the pigment parts of one plastic film are larger than the corresponding

void parts of the other plastic film. Consequently, the combination of Ewan with Oshima et al and Tucker also does not disclose the structure of the claimed mark developing means.

(c) Moreover, Ewan discloses at col. 5, lines 54-66 that "... attempted resealing after opening as shown in FIG. 7 and 8, will not achieve the same interface and air spaces, shown generally as 44 in FIG. 8, will remain between colorant layer 34 and panel 24 in the indicia-defining pattern previously defined by masking material 32, thereby creating a color differential. The generation of these air spaces is also facilitated by the fact that dislodgement of the composite in the areas of the masking material does not produce a completely even boundary so that upon attempted resealing, the dislodged composite portions 40 will not fully complement voids 42 in the composite remaining on panel 24." Thus, the purpose and the technical features of Ewan are entirely different from those of the presently claimed invention.

Isakson and Sato fail to make up for the deficiencies of Oshima, Tucker and Ewan discussed above.

Thus, Oshima, Tucker, Ewan, Isakson and Sato fail to render obvious the present claims. Accordingly, withdrawal of the rejections is respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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